

EXHIBIT S – Part 1

Complete Deposition of Dr. Stephen
Ansolabehere

Civil Action No. 1:13-CV-00949

-v-

APPEARANCES :

T A B L E O F C O N T E N T S

E X A M I N A T I O N

Witness	By Whom	Page No.
Stephen Ansolabehere	Mr. Farr	5

The following deposition of STEPHEN ANSOLABEHERE, PH.D., called as a witness by the Defendants, was taken before Glenda F. Hightower, Certified Verbatim Reporter and Notary Public, at the law offices of Ogletree, Deakins, Nash, Smoak and Stewart, 4208 Six Forks Road, Suite 1100, Raleigh, North Carolina on Tuesday, May 6, 2014 beginning at 12:25 p.m.

S T I P U L A T I O N S

Prior to the taking of the testimony, counsel for the respective parties stipulate and agree as follows:

1. That the deposition shall be taken and used as permitted by the applicable Federal Rules of Civil Procedure.
2. That any objections of any party hereto as to the notice of the taking of the deposition or as to time or place thereof, or as to the competency of the person before whom the same shall be taken, are deemed to have been met.
3. Objections to questions and motions to strike answers need not be made during the taking of this deposition, but may be made for the first time during the progress of the trial of this case, or at any pretrial hearing held before any judge of competent jurisdiction for the purpose of ruling thereon, or at any other hearing of said case at which said deposition might be used, except that an objection as to the form of a question must be made

at the time such question is asked, or objection is waived
as to the form of the question.

4. That the witness reserves the right to read and
sign the deposition prior to filing.

5. That the original transcript of this deposition
shall be mailed Priority Mail Postage to the party taking
the deposition for preservation and delivery to the Court.

1 Whereupon,

2 STEPHEN ANSOLABEHERE,

3 Having been first duly sworn, was examined and
4 testified as follows:

5 Direct Examination by Mr. Farr:

6 Q. Henry Higgins, I presume?

7 A. (Laughs.)

8 Q. Could you please state your name for the
9 record?

10 A. Stephen Daniel Ansolabehere.

11 Q. And during the course of this deposition,
12 would you object if I called you Professor or
13 Steve?

14 A. Not at all.

15 Q. Okay. Thanks a lot. Professor, I don't
16 -- I've got a copy of your report which has
17 been marked as Exhibit 9, and I apologize; but
18 the copy that I have does not have a copy of
19 your vitae attached to it.

20 A. Oh.

21 Q. So, I'm just going to ask you a few
22 questions about your background.

23 A. Okay.

24 Q. So, could you tell me how -- when you
25 received your education, and the type of

1 degrees you received and when you received your
2 degrees?

3 A. In 1984, I received a Bachelor of Arts
4 and a Bachelor of Science from the University
5 of Minnesota. In 1989, I received by Ph.D. in
6 Government from Harvard University.

7 Q. And is that --

8 A. Those are my degrees.

9 Q. Do you have a master's degree?

10 A. Well, I get a master's in passing in the
11 Ph.D. program, so --

12 Q. Okay. So, let me --

13 A. -- as you qualify, you get a master's.

14 Q. Okay. Have you had your deposition
15 taken before?

16 A. I have.

17 Q. Okay. Just a few ground rules,
18 Professor: because of the court reporter,
19 would you let me finish my question before you
20 answer? A lot of times, people who are in this
21 situation start having a conversation, and you
22 know what I'm going to say, and I think I know
23 what you're going to say; but to benefit the
24 court reporter, try to let me finish my
25 question. And I will try very hard not to

1 interrupt your answer. Is that okay?

2 A. I will try my best.

3 Q. Okay. I'm looking at your -- your first
4 -- you've done two expert reports in this case,
5 is that right?

6 A. Correct.

7 Q. Okay. I'm looking at the first one,
8 which I think has been marked as Exhibit 9,
9 which you have in front of you. I want to ask
10 you about some of the experiences that you've
11 listed in the first few pages of this exhibit.

12 So, could you tell me -- in the first
13 paragraph, you say you directed the Caltech/MIT
14 voting technology project from 2000 to 2004.
15 Could you give me an explanation of what that
16 was?

17 A. Following the 2000 election controversy,
18 the President of Caltech and the President of
19 MIT initiated a project to study voting
20 technology to try to help find technical
21 solutions to various problems that were
22 discovered during the elections.

23 And I organized a team of engineers,
24 computer scientists and social scientists to
25 try to develop new voting technologies, new

1 registration procedures and so forth, and to
2 help advise different organizations,
3 governmental and non-governmental.

4 And as Director, I was responsible for
5 raising the funds for that, organizing the
6 activities, helping prepare reports and
7 coordinating any kind of consulting with
8 government.

9 Q. Okay. Was that your first job after you
10 got your Ph.D.?

11 A. My first job after my Ph.D. was I taught
12 at UCLA, and I was a Professor of Political
13 Science. Then, they didn't have a statistics
14 department; they had a social statistics
15 program. So, that eventually became the
16 statistics department.

17 And then I moved to MIT in 1995, and I
18 taught at MIT. I was appointed in '94, but I
19 moved there in '95. I taught at MIT until
20 2007/2008, and then I moved to Harvard.

21 Q. Okay. What were your positions at MIT?

22 A. I was -- I started as an Assistant
23 Professor and was immediately promoted to
24 Tenured Associate Professor. I was then
25 promoted to a full Professor, and then given an

1 endowed Chair. I served as the associate head
2 of the department, largely in charge of
3 personnel matters.

4 At MIT, I did various activities,
5 including running a seminar for senior
6 congressional staff on technology politics, and
7 running the Caltech/MIT voting technology
8 project and other programs and projects.

9 Q. Okay. Did you -- at UCLA or MIT, did
10 you teach any classes?

11 A. Yes. I teach everything from Intro to
12 American Government to Social Science
13 Statistics to advanced graduate classes largely
14 in elections and voting behavior; some in
15 Congress and representation.

16 Q. And tell me what you mean by voting
17 behavior.

18 A. Voting behavior covers a range of -- of
19 research activities from public opinion
20 research to study of elections and election
21 outcomes, both in the U.S. and other countries,
22 to various questions -- even engaged in things
23 like election law, problems of representation,
24 redistricting and so forth.

25 So, it really runs the gamut from the

1 very micro to the aggregate macro.

2 Q. Have you ever taught a class, or have
3 you ever been engaged to predict election
4 results?

5 A. I work for CBS News on election night.
6 So, the job there is to actually call the
7 elections on election night as we're getting
8 real-time data. So, it's processing the
9 election returns as they come in, trying to
10 resolve discrepancies; trying to make a
11 forecast so we're reasonably sure when an
12 election is going one way or the other.

13 So, that's actually real-time forecasting;
14 you know, what will happen when the election
15 count is over and how sure are we that this is
16 a finished, you know, election. Before that,
17 though, we do a lot of forecasting for about a
18 year and a half to try to get a sense of which
19 elections are likely to come out which way and
20 why. And that helps us manage election night
21 and which races are we going to have to pay a
22 lot of attention to and which ones should we
23 not worry so much about.

24 Q. Okay. What sort of -- and how often
25 have you done this for CBS News?

1 A. I started at CBS in 2006. Well, I
2 started in 2005, but the 2006 election.

3 Q. And have you been employed by CBS since
4 then?

5 A. Yeah.

6 Q. Okay. So, every general election since
7 2006?

8 A. And primaries, yeah.

9 Q. And primaries, okay. What sort of data
10 have you looked at for -- you said you do
11 election day predictions and then forecasting
12 before the election. What sort of data did you
13 look at to forecast el- - or do you look at to
14 forecast elections before election night?

15 A. Okay. We use surveys; surveys of
16 different forms. Some are horse-race surveys,
17 who is ahead in the race. Others are surveys
18 having to do with, like, basic demographics or
19 political orientations of the public: how many
20 Democrats and Republicans are they, how they
21 are trending; economic surveys.

22 Consumer confidence is a very good
23 predictor of how the aggregate will come out at
24 the end of the year. Then we also look at
25 registration data at the precinct level and

1 past vote returns at the precinct level. And
2 from that, we build a model to predict which
3 precincts are likely to go toward which party
4 given our model of how the electorate is
5 trending that year.

6 Q. When you say you look at past vote
7 returns at the precinct level, could you
8 amplify on that a little bit? What do you mean
9 by that?

10 A. So, we take precinct level election
11 returns from prior elections. Like, for 2014,
12 we'll look at the 2012 presidential, governor,
13 senate elections and so forth in any state as
14 reported by the secretary of state or whatever
15 the election office is in that state. Usually
16 it's the secretary of state, but some states
17 have a board of elections like North Carolina.

18 And we'll take those data mapped into the
19 precincts. Most of the states now work with
20 the census voter tabulation district system, so
21 that makes it easy to merge that into census
22 data such as racial demographics, income
23 statistics and so forth.

24 And then we'll use all that information
25 merged in at the precinct level to do some

1 statistical modeling to form forecasts.

2 Q. Okay. And you've said that you use
3 presidential, governor and senate to --

4 A. Yeah, we use a lot of elections:
5 lieutenant governor, attorney general;
6 secretary of state.

7 Q. So, are those elections typically
8 statewide elections that you use?

9 A. Yeah. Our team -- I work with a team of
10 -- of researchers that come from different
11 domains. There's a Democratic consultant on
12 the team, a Republican consultant on the team,
13 another academic and then two in-house people.

14 And we have a discussion about each
15 state, thinking about which -- given the
16 context in which the election is happening,
17 which election is likely to be a very good
18 predictor of what will happen in this given
19 context.

20 So, it depends on who the candidates are
21 running; what the economic context is. If it's
22 a bad economy, we might think about when was
23 the last time that, say, a Republican president
24 -- when a Republican was president and it was a
25 bad economy, we'd go back and look at those and

1 how do the precincts shape up.

2 So, it's very context dependent in terms
3 of which elections we will use as a -- kind of
4 a bellwether election. We also take all those
5 elections and average them so that we come up
6 with, like, a party support score. So, the
7 average of those will help us protect against
8 there being an odd election that you can make a
9 wrong inference based on.

10 Q. Okay. I guess my question was, are --
11 are statewide elections more useful than, like,
12 district elections in predicting election
13 outcomes?

14 A. Well, a lot of what the CBS folks design
15 -- because that's the national nightly news --
16 are the national elections. So, they really
17 care about the federal races. So, we -- and
18 since most of those elections are really
19 senate, some governor and then president,
20 that's what we tend to use for those races.

21 For the U.S. House races, we don't --
22 we'll do an ongoing tabulation and count --
23 have a model that's using a lot of different
24 elections to come up with a forecast. So, the
25 average vote is used -- is what we'll use more

1 often in making our forecasts for the House
2 districts.

3 Q. Do you use the statewide elections to
4 evaluate the congressional elections?

5 A. Yeah.

6 Q. What sort of --

7 A. Well, there are some statewide elections
8 we wouldn't use where it's just an
9 idiosyncratic election. We would look at it
10 and say, this is not correlated at all with the
11 ten other elections that happened in this state.

12 Q. Unh-hunh (yes).

13 A. An example would be the Blackwell's -- the
14 secretary of state election in Ohio was really
15 uncorrelated with -- really had a low
16 correlation with everything else. We didn't
17 use that one.

18 Q. What do you mean by low correlation?

19 A. Well, in that case, it was about .6.
20 These elections at the precinct level -- the
21 precinct election returns tend to be very
22 highly correlated with each other, .9, .8 or
23 somewhere in there.

24 Q. Okay. So, I guess one question I have
25 is if you have a statewide election where the

1 candidate wins by a very large margin, however
2 you would define that, is that as useful as a
3 statewide election where there's a closer
4 margin of victory?

5 A. It depends on the state and what you're
6 trying to do. I know that in -- it's called
7 swing vote analysis or party bias analyses that
8 all -- that researchers will tend to use a lot
9 of different elections and try to predict out.
10 But the ones that are closest to 50/50 in the
11 outcome are the most useful for that kind of
12 analysis.

13 So, which races you're using depends a
14 little on what kind of analysis you're doing.
15 For forecasting purposes, every state has its
16 own average of -- like, Massachusetts is pretty
17 Democratic; Wyoming and Utah are pretty
18 Republican. We want to find which ones are
19 going -- you know, which races are going to be
20 close to the average vote.

21 For forecasting the key -- North Carolina
22 is a pretty evenly divided state. So, the
23 50/50 races are pretty good indicators, you
24 might guess.

25 But for forecasting purposes, at the

1 precinct level, what we really care about, is
2 getting a good prediction of the order of the
3 precincts. And what we look for is, is there
4 -- is there a precinct or a county that has an
5 early return that's kind of a bellwether
6 county, and it's going the wrong way or it's
7 going towards one candidate or another.

8 Q. Unh-hunh (yes).

9 A. An example would be Ohio. This last
10 election in 2012, we saw that Ohi- -- Hamilton
11 County in Ohio which is in the Cincinnati area
12 --

13 Q. I'm from Cincinnati.

14 A. Okay. It's a really closely divided
15 county, but it tends to be -- it tips toward
16 Republican.

17 Q. In the good, old days.

18 A. Yeah. So, if the Republicans aren't
19 winning that county early in the night, it's --
20 it's kind of bad news for Republicans as a
21 predictor.

22 Q. Okay. I've got you.

23 A. So, what we're looking for is the rank
24 ordering of the counties in the prediction, and
25 if we see something early in the night that's

1 trending in the wrong direction for one of the
2 parties, that helps us to make a judgement
3 about how all the other -- all the other races
4 are going to go -- all the other counties, all
5 the other precincts are going to go.

6 And the reason is that because the
7 precincts are so highly correlated, election
8 returns from one -- elections are highly
9 correlated as long as you don't have an
10 idiosyncratic election in that mix.

11 Q. Unh-hunh (yes).

12 A. Then you -- you can sort of rank order
13 things and see where -- where you are relative
14 to expectations. And Hamilton would be an
15 example of a county where we'd just say, "Oh,
16 that's our 50/50 bellwether county. Let's
17 watch that one tonight and see where it goes."

18 Q. Okay. Now, just -- has it been your
19 experience that in states that are controlled
20 by a particular party, that the legislative
21 districts are often drawn to favor the party
22 that drew the districts?

23 A. Yeah, that tends to be the case.

24 Q. Okay. And --

25 A. Not entirely, but tends to be.

1 Q. Okay. And does that raise any issues
2 about using legislative races to predict either
3 legis- -- state legislative or congressional
4 races -- are there any issues that are raised
5 by that in terms of trying to predict elections?

6 A. The usual problem with using legislative
7 races to predict congressional races or a state
8 legislative race to predict a congressional
9 election is that you have different candidates
10 running in different legislative races, and you
11 have to somehow figure out how the candidate
12 effect -- well, you might have an incumbent in
13 one race -- so the other congressional district
14 that has, say, three legislative districts in
15 it, you might have a cong- -- an incumbent in
16 one legislative district and he's doing better
17 than the party average -- right?

18 Q. Unh-hunh (yes).

19 A. So, what we're doing for forecasting is
20 thinking about how well a typical Democrat or
21 Republican will do in this specific area. So,
22 if we -- if we used the state legislative
23 races, we'd have to think a little bit about
24 what's the incumbency effect and how do we
25 subtract that out or account for it.

1 So, using statewide offices tends to be a
2 little bit easier because you've got the same
3 two candidates everywhere. So, it makes it a
4 little easier to do the forecasting.

5 Q. And is it not true that the -- aren't
6 there a lot of legislative or congressional
7 races where the incumbent often runs unopposed?

8 A. Yes. And some states like Florida don't
9 report any election returns for unopposed or
10 traditionally didn't. So, we don't even have,
11 like, a total number of people who voted in
12 that race.

13 So, for unopposed, that creates an issue.

14 Q. That would not -- the sort of race like
15 that would not be a good one to use to predict
16 election results?

17 A. Well, you just wouldn't use the year in
18 which the data was an unopposed because there's
19 no information. So, it's called missing data,
20 and you would use other elections for that seat
21 or elections in other offices in that year to
22 construct an average.

23 Q. Unh-hunh (yes).

24 A. And that's one reason why you might
25 construct an average party score because it

1 just omits those cases where you don't have an
2 observation.

3 Q. How many -- what about the funding of
4 respective candidates? Can that make a
5 difference in terms of whether, you know, a
6 very well-funded candidate defeats an
7 under-funded candidate? Does that have any
8 impact on the utility of that race for
9 predicting election results?

10 A. It can. It's interesting that the
11 academic literature on the effect of money on
12 elections is -- is all over the place. We
13 don't have a good sense of, like, what the
14 effect of money is; and when you do a
15 correlation between your vote and how much is
16 spent, it turns out the correlation between how
17 much is spent and your vote is negative if
18 you're an incumbent.

19 That's an indication that vulnerable
20 incumbents are the ones who have to spend the
21 most amount of money. And that's been a very
22 difficult -- very difficult to figure out how
23 much money actually matters for the final
24 outcome and what the net effect is.

25 So, the money -- money is a very

1 complicated thing, and we don't -- at CBS, we
2 don't do anything to correct for that. In
3 other academic work, I've researched that --
4 that question; but, typically, in swing-vote
5 analyses and so forth, people do not correct
6 for money.

7 Q. Unh-hunh (yes). Have you ever done any
8 research as to whether or not candidates who
9 are substantially better funded than their
10 opponent have any sort of edge in --

11 A. Yeah.

12 Q. -- a legislative or a congressional race?

13 A. Yeah.

14 Q. And what is your conclusion from that?

15 A. My conclusion is that it -- the -- that
16 research has -- well, my colleague, Jim Synder,
17 and I estimated that the elasticity; in other
18 words, the percent changing your vote for a
19 percent changing your money is about four or
20 five percent.

21 So, if I have a hundred percent increase
22 in how much money I spent; or if I spent a
23 hundred percent more than the other guy, I get
24 about a four percent advantage. But that's --
25 that's a contested conclusion. Other academics

1 have written other things, so --.

2 Q. Other academics think it's a bigger
3 advantage to have more money?

4 A. Some people think it's bigger. Some
5 people think it's smaller. Some people think
6 it only matters for challengers and not for
7 incumbents. Some people think it matters only
8 for incumbents and not for challengers. So,
9 the literature is a mess.

10 Q. So, the effect of money on campaigns is
11 contested?

12 A. Yes.

13 Q. Okay. Got you. All right. Looking --
14 I think you've explained to me what you do as a
15 consultant for CBS News. I now wanted to ask
16 you about your role as consultant to the
17 Brennan Center in the case of McConnell v. FEC.

18 A. Unh-hunh (yes).

19 Q. Could you tell me what the Brennan Center
20 is?

21 A. The Brennan Center is a nonprofit
22 organization in New York City. It has an
23 affiliation with NYU. It was created, I think,
24 in memory of Justice Brennan, and it works on
25 voting rights issues -- a variety of them and

1 other issues as well.

2 Q. Okay. Is the Brennan Center involved in
3 redistricting cases?

4 A. Probably. I -- I don't have any
5 personal knowledge of it.

6 Q. Okay. And when you say you were a
7 consultant in McConnell versus FEC, could you
8 elaborate on that a little bit?

9 A. So, they approached me -- Brennan Center
10 approached me about being the testifying expert
11 in that case, and I passed because I was
12 involved with other research, and I wanted to
13 devote myself to that.

14 But they had asked me if I would consult
15 with them, helping them think through things,
16 show me data analyses; study, you know, kind of
17 the merits of their own research that they were
18 putting forth for the case.

19 Q. And could you describe the issues that
20 were involved in that case?

21 A. The Brennan Center -- I think one of the
22 things that was a main focus of their work was
23 the Brennan Center prepared a series of reports
24 on issue ads and what kind of words are used in
25 issue ads, and how often -- how much money is

1 spent on those issue ads and so forth.

2 And most of my time I spent analyzing the
3 data that they had collected, and I actually
4 had them bring in an outside consultant, Anna
5 Greenberg, to do an independent evaluation of
6 that study where they just did a complete
7 replication of the -- of the results.

8 So, we, like, really were getting into
9 the nuts and bolts of how did they do their
10 research and what are the problems with it and
11 what are the strengths of it. Issue ads were
12 -- I think they were the centerpiece for what
13 the Brennan Center was focused on because that
14 was the issue that they had sort of been
15 pushing the most.

16 Q. Did that case McConnell v. FEC involve
17 any matters related to redistricting?

18 A. No.

19 Q. Okay. All right. Then you say you
20 testified before the Senate -- various Senate
21 committees and a House committee, and the
22 Congressional Black Caucus and you say on
23 election administration in the United States.

24 Could you give me an idea of what that
25 testimony has entailed before all those

1 committees?

2 A. Most of it involved testimonies related
3 to the Caltech/MIT Voting Technology Project,
4 what we knew about performance of voting
5 machines and -- and we issued several reports;
6 one important report called Voting, what is;
7 what could be.

8 And various committees in Congress were
9 very interested in that because they were
10 considering legislation at the time. So, I and
11 others in my team were pretty active responding
12 to requests from Congress to hear what we had
13 to say.

14 Later -- that -- a lot of that was in
15 2001, 2002, 2003. Later in 2009, I testified
16 on registration. Senator Schumer and Senator
17 Bennett were having -- holding hearings on a
18 potential voter registration bill that would
19 have been some sort of comprehensive voter
20 registration system for the United States.

21 I'd done a lot of survey work on who has
22 trouble voting in the United States, and one of
23 the things that popped out in that survey, just
24 unbeknownst to me, was that the people who had
25 the most problem voting -- when you get to the

1 point of requesting of a ballot -- say, an
2 absentee ballot, or going to the polls or
3 something like that or some problem with your
4 registration -- were the U.S. Military
5 personnel.

6 So, that's what I was testifying about.
7 And that helped the Senators move forward to
8 embrace the MOVE Act in 2009. So, that's where
9 we ended up moving. And then --

10 Q. What was the MOVE Act?

11 A. I don't remember what the acronym stands
12 for, but it was basically an act to improve the
13 ability of overseas military personnel to cast
14 ballots.

15 Q. Okay. That's a worthy project. Thank
16 you.

17 A. You're welcome.

18 Q. Can you think of any other testimony
19 before the committees that you mentioned here
20 on -- in paragraph 2?

21 A. Those committees, no, but since I filed
22 this report, I've been helping the Presidential
23 Commission on Election Administration that just
24 finished its work. It was headed by Bob Bower
25 and Ben Ginsberg, and I testified for them on a

1 few things.

2 But, mainly, I was serving a purpose of
3 trying to facilitate a lot of academic
4 researchers to come together and help them
5 answer specific research questions that that
6 commission had. That's the most recent public
7 testimony.

8 Q. And if this is going to take an hour, I
9 don't want you to do it, but --

10 A. No.

11 Q. -- can you tell me what -- what the
12 commission is looking at, what the issues that
13 they are examining that you facilitated
14 testimony on?

15 A. Okay. The commission was looking at what
16 are the things that the United States,
17 especially states and counties, can do without
18 the passage of new legislation to improve the
19 technical administration of elections in the
20 United States.

21 And that included things like how do you
22 reduce lines and so forth. So, one of things
23 that I -- I built for them was a web page that
24 just has different tools that county
25 administrators can use to manage their lines.

1 You type in a few -- you type in some
2 parameters, and then it tells you how many
3 voting machines and how many voter registration
4 places you should have in a given precinct
5 given its turnout and so forth.

6 Q. Well, explain to me how do you manage
7 lines?

8 A. So, it turns out it's an operations
9 research problem. Like Disneyland has lines
10 and how do they manage their lines. So, we --
11 I worked with my colleague Steven Grades who
12 I've known since the beginning of the Voting
13 Technology Project, and he's an operations
14 research person; and he developed a simple tool
15 for -- for line management.

16 And it's basically an optimization
17 problem, given the flow over the course of the
18 day and the number of people who come to the
19 polling place, and the backlog that happens
20 from a bottleneck at any moment from the --
21 from not having enough poll workers to check
22 people in or not having enough machines to vote
23 on. How many poll workers and machines should
24 you have in order to minimize lines?

25 And it's a little complicated problem

1 because once a line starts, it creates
2 feedback, and the line lengthens, so it will
3 take some time to clear it out. So, we're
4 developing some operations research tools to
5 help people manage.

6 And the idea was, "Let's just put these
7 tools out there for free so that anybody can
8 look at them, criticize them, but also any
9 county administrator can use 'em."

10 Most of the counties in the United States
11 that administer elections are rural, poor,
12 don't have resources; and that's a big part of
13 the problem. So, they can't hire a consultant
14 to come in and do this. This needs to be free
15 for those people.

16 The other aspect of this is that Darren
17 Shaw, who is my -- who is my colleague in
18 Texas, and he -- he and I were helping to
19 organize the research team for this commission,
20 ran a survey of election administrators in the
21 United States just to hear from them what they
22 think is problem -- what the problems are, and
23 what they think we can do better, and to get
24 that information into the commission's hands.

25 Q. Okay. Does that cover your testimony --

1 A. Yeah, that's the --

2 Q. -- with the committees and working with
3 the committees?

4 A. Yes.

5 Q. Okay. And then you say that you filed a
6 brief with a couple of professors in the case
7 of Northwest Austin Municipal Utility District
8 v. Holder.

9 A. Yeah.

10 Q. Could you tell me about that?

11 A. That brief had to do with the question
12 of racially polarized voting in the different
13 states and questions of coverage under Section
14 5, which was the issue at stake in that case.

15 Q. Okay. Did you testify in that case?

16 A. I did not. That brief was an Amicus
17 brief for neither party. It was accepted by
18 both parties.

19 Q. Okay. Then you were a consultant for
20 the Rodriguez plaintiffs in Perez v. Perry?

21 A. Correct.

22 Q. Which is in the District Court in the
23 Western District of Texas?

24 A. Correct.

25 Q. Could you tell what you did in that case?

1 A. I'm the expert witness in that case, and
2 I've been --

3 Q. For which side?

4 A. For the Rodriguez plaintiffs; not the
5 State of Texas, which would be Perry.

6 Q. Have you given any testimony in this case?

7 A. I have.

8 Q. Could you tell me what your tes- --
9 again, I don't want to keep you here to examine
10 you on your testimony in that case.

11 A. No, no.

12 Q. I just kind of want to know what you
13 testified about.

14 A. That was in 20- -- that started in 2011,
15 so it's becoming --

16 Q. What the subject of your testimony?

17 A. The subject was racially polarized voting
18 in the State of Texas in specific congressional
19 districts, the likely electoral performance of
20 those districts, the demographic characteristics
21 of those districts, the quality of the American
22 Community Survey; questions about projections
23 of citizen voting age population in states and
24 localities.

25 Q. Okay.

1 A. There's details, but --

2 Q. That's good enough. Okay. And then the
3 next case you have listed is the Department of
4 Justice in State of Texas v. Holder?

5 A. Right.

6 Q. And that case is in the District Court of
7 the District of Columbia?

8 A. There are two cases. I'm not sure which
9 one you're referring to. There are two cases
10 that --

11 Q. I'm just -- I want you to follow along
12 in your expert report.

13 A. Okay. One is a Section 5 case in Texas
14 on redistricting.

15 Q. Right. Is the Section 5 case in the
16 District of Columbia court?

17 A. Yes, it is. There were two Section 5
18 cases. One is -- right, so there's -- working
19 on behalf of the Gonzales intervenors in the
20 State of Texas versus the United States.

21 Q. Unh-hunh (yes).

22 A. That's the Section 5 redistricting case,
23 and that concerned whether there had been
24 retrogression or reduction in the number of
25 black and hispanic districts in the State of

1 Texas.

2 And the kind of analyses done, again,
3 were racially polarized voting analyses,
4 demographic analyses and assessment of the
5 likely performance of those districts.

6 Q. Yeah, I want to ask you a question about
7 that. You say the reduction in the number of
8 black and hispanic districts. What's -- in the
9 context of that case, what was a black district?

10 A. There are several categories. One is
11 whether it's a majority CVAP district; that is,
12 whether the demographics of the district are
13 such that a majority of the citizen voting age
14 population, CVAP, was above 50 percent hispanic
15 or 50 percent black.

16 Q. Unh-hunh (yes).

17 A. And then there are a set of districts
18 that might be considered coalitional districts
19 where it's black plus hispanic.

20 Q. Do the black and hispanics equal the
21 amount that's over 50 percent of those
22 districts?

23 A. Correct. But it's citizen voting age
24 population. And then there is a further
25 question -- it's an open question about whether

1 or not cross-over districts and districts where
2 the black or hispanic preferred candidate can
3 win but not with the vote -- but they're not a
4 majority; and the whites are voting against
5 them, but there are enough whites who cross
6 over and vote with the minorities so it's an
7 effective minority district.

8 And that's the -- that's actually a live
9 -- a very live question in the courts right
10 now, and it's a highly disputed question, I
11 think.

12 Q. Is that a live question under Section 5?

13 A. It was a Section 5 question. Should the
14 Department of Justice count that -- that
15 district in making its retrogression analysis.

16 Q. Yeah.

17 A. And then under Section 2, it becomes a
18 question as well, which what's the legal status
19 of such a district if it exists. And then
20 that's -- that's -- those are, I think, the
21 central issues.

22 Q. Okay. And you have testified in that
23 case?

24 A. Yes.

25 Q. Okay. And then you said there was

1 another Texas case that's pending actually in
2 Texas?

3 A. Well, that case is coming back currently.
4 I've not yet testified in that, and that is
5 Perez v. Perry again, and that will be mid-July
6 in the District Court, I think, in Corpus
7 Christi.

8 Q. Have you made any reports in that case?

9 A. I just did the reports in that case.

10 Q. Well, just give me the --

11 A. The --

12 Q. -- highlights --

13 A. Yeah.

14 Q. -- of your report.

15 A. Yeah, the reports in that case were "See
16 all my earlier reports" because it's all the
17 same old issues. And then there were a few
18 specific questions about Congressional District
19 23 and Congressional District 25, and about the
20 American Community Survey and the calculation
21 of citizen voting age population.

22 Q. Okay. All right. And then I think the
23 next one that's on your list is Guy v. Miller.

24 A. There's a second State of Texas v.
25 Holder case.

1 Q. Okay.

2 A. That's the Texas voter I.D. case.

3 Q. Okay.

4 A. And that was a Section 5 case.

5 Q. What's the status of that case since

6 Section 5 has gone away? Do you know?

7 A. The Department of Justice is suing Texas
8 under Section 2.

9 Q. Okay.

10 A. And I've been retained as their expert
11 in that, but no reports have been filed.

12 Q. Okay. What about -- am I right that the
13 next case is Guy v. Miller?

14 A. Unh-hunh (yes).

15 Q. What's that case all about?

16 A. That was redistricting in the State of
17 Nevada. The State Legislature passed a plan,
18 the governor didn't sign it. Nevada had
19 received an additional congressional district,
20 and they didn't have the process for creating
21 it.

22 So, the judge in the state court created
23 a panel to consider the voting rights
24 questions, draw a new plan; and the different
25 parties in the case had to weigh in on what

1 were the voting rights issues in the state and
2 what the likely consequences of alternative
3 plans that had been proposed.

4 Q. Are you a witness in that case?

5 A. I was a witness in that case.

6 Q. And for which side?

7 A. I'm trying to -- the Guy plaintiffs, yeah.

8 Q. What's that?

9 A. The Guy plaintiffs.

10 Q. Okay. Were the Guy plaintiffs minority
11 plaintiffs or -- can you describe the
12 demographic status or --

13 A. I think they were Democratic plaintiffs.

14 Q. Okay.

15 A. Democratic Party plaintiffs. It was a
16 very confusing case because, like, there wasn't
17 a plan and all sorts of maneuvers were going on
18 that were -- one of the motions was that they
19 just adopt a plan and ignore the veto of the
20 governor, and was that constitutional in the
21 state. Yeah, it was a very confusing case.

22 Q. In these other cases that we've
23 mentioned, have you testified for other
24 Democratic plaintiffs?

25 A. The plaintiffs in Perez v. Perry are

1 Democrats, I believe.

2 Q. In any of these cases that are on
3 Exhibit 9, did you ever testify for Republican
4 plaintiffs?

5 A. No. I've never been asked.

6 Q. Okay, Tom, don't feel so bad.

7 (Addressing Mr. Hofeller) Just kidding.

8 What about Florida Democratic Party in re
9 Senate resolution of legislative appointment?
10 Were you a witness in that case?

11 A. I filed a report. I did not testify.
12 That is ongoing. The continuation of that is
13 Romo v. Detzner. In re Senate joint resolution
14 is a, kind of, preliminary process that was set
15 up by the State of Florida in its new
16 constitutional amendment that created a
17 procedure for evaluating the state plans.

18 Q. Unh-hunh (yes).

19 A. So, they had -- the State Supreme Court,
20 essentially, had a pre-clearance process where
21 they did a preliminary evaluation of all plans
22 to see whether a trial should be held, or
23 whether the plans passed by the Florida State
24 Legislature were acceptable as is.

25 And the Florida State House plan was

1 acceptable in their judgement, and the State
2 Senate and congressional plans were deemed as
3 not passing a prima facia review or facia
4 review, and then it went on -- now, it's at
5 trial; and that's waiting.

6 Q. Okay.

7 A. And that's Romo v. Detzner.

8 Q. Okay. So, that's kind of related to the
9 other case?

10 A. Yeah.

11 Q. And are your clients in those cases
12 Democratic clients?

13 A. It's my understanding that they're
14 Democratic clients.

15 Q. Okay. And then the last case that you
16 listed, League of United Latin American
17 Citizens v. Edwards Aquifer Authority, --

18 A. Unh-hunh (yes).

19 Q. -- could you tell me about that case?

20 A. That's a one person one vote case. It's
21 a water district that manages use of water in
22 the area to protect endangered species, prevent
23 pollution, prevent overuse of water; and I've
24 been retained or hired by the City of San
25 Antonio and the San Antonio water district.

1 Q. Okay. All right. Now, in this case,
2 who has retained you?

3 A. I am retained by the -- the -- I was
4 approached by the -- by John Devaney to see if
5 I was interested in working on this case. So,
6 I'm retained by the -- I'm sorry -- an early
7 senior moment.

8 MR. SPEAS: Harris Plaintiffs.

9 A. Harris Plaintiffs. Sorry.

10 Q. (Mr. Farr) Okay. Are the Harris --
11 there's two Harris Plaintiffs in the case now
12 is my understanding. Is that your
13 understanding?

14 A. I didn't know that.

15 Q. Oh, you didn't know how many there were?

16 A. I didn't know how many Harris Plaintiffs
17 there were.

18 Q. Okay. All right. And have you ever
19 talked to any of the Harris Plaintiffs?

20 A. I've not.

21 Q. Are they paying your fee, the Harris
22 Plaintiffs?

23 A. That's my understanding, yes.

24 Q. Okay. Do you have a fee agreement with
25 the Harris Plaintiffs?

1 A. I have a fee agreement through John
2 Devaney at Perkins Coie.

3 Q. Have you submitted bills in this case?

4 A. I have.

5 Q. And who have you submitted the bills to?
6 The Harris Plaintiffs or to John?

7 A. John Devaney in regard to the Harris --

8 Q. Have you received checks form --

9 A. I have.

10 Q. And are the checks signed by the Harris
11 Plaintiffs or are they signed by someone else?

12 A. I've not looked at who the -- the checks
13 come from -- directly from Perkins Coie, and I
14 have not looked at the signatories.

15 Q. Have you worked with Perkins Coie in
16 other cases?

17 A. Yes, I -- the Romo case in Florida is
18 Perkins, and the -- and Perkins is involved in
19 the Texas Section 2 and Section 5 redistricting
20 cases. And Perkins was involved in the Guy v.
21 Miller case.

22 They approached me in July of 2011 about
23 working with them on the Texas redistricting
24 case, and they liked my work, so they hired me
25 again for other cases.

1 Q. Okay. All right. In paragraph three,
2 you say you're an "author of numerous scholarly
3 works on voting behavior and elections, the
4 application of statistical methods in social
5 sciences, legislative politics and
6 representation and distributive politics."

7 Could you describe all those topics for
8 me, please?

9 A. So, voting behavior and elections, I've
10 worked pretty extensively on questions such as
11 election forecasting, incumbency effects;
12 campaign finance. I do a fair amount of work
13 on voting behavior at the individual level;
14 largely survey research in trying to understand
15 what factors predict why people choose to vote
16 for one candidate or another or one party or
17 another, and also why people choose to vote or
18 not vote but be registered to vote or not vote
19 and what the implications of those are -- those
20 factors are for understanding election outcomes
21 in the United States.

22 Application of statistical methods in the
23 social sciences, my research has -- one of the
24 things I focus on is aggregational issues,
25 like, how -- how do individual level data get

1 aggregated; some work on experimental methods.

2 That's older work. That's from the '90s.

3 Legislative politics and --

4 Q. Could you stop for a second?

5 A. Okay.

6 Q. I'm -- I know enough about this to be
7 dangerous, but I don't know as much as you do.

8 A. Okay.

9 Q. When you say aggregation of --

10 A. So, if I have data that consists of a
11 lot of individuals and I want to understand the
12 relationship between two factors at the
13 individual level, but I have data at an
14 aggregate level, what assumptions do I need to
15 make in order to infer from the aggregate level
16 correlations between those two factors --
17 something about individual level behavior.

18 Q. Can you give me an example?

19 A. The classic example is by someone named
20 W.S. Robinson where they were looking at the
21 correlation between literacy and income, and
22 found a weak correlation. And then they --
23 Robinson discovered that there was an omitted
24 variable, which was foreign-born population.
25 As soon as you control for foreign born, that

1 relationship changes.

2 Q. The connection between literacy and
3 income --

4 A. Yes.

5 Q. -- was that when you take the foreigners
6 out, is that right, or it the other --

7 A. Yes.

8 Q. -- way around?

9 A. That would be correct.

10 Q. Okay.

11 A. And this was an important finding in the
12 1950s.

13 Q. All right. So, what about legislative
14 politics and representation?

15 A. So, legislative politics and
16 representation, I work on coalitional politics
17 in Europe. How do governments get formed,
18 coalition partners, how stable are they, what
19 -- what are the politics behind the formation
20 of coalitions.

21 In the United States, I work on
22 representation, especially, roll-call voting
23 behavior in Congress; and what explains why
24 members of Congress and state legislatures vote
25 certain ways on -- on legislation.

1 A very live question for political
2 scientists is whether or not members of
3 Congress are following what their districts
4 want, what their parties want or what they
5 personally would like to do or don't -- their
6 own personal ideologies in those cases.

7 Q. Okay. And I think the final subject is
8 distributive politics. What does that mean?

9 A. Distributive politics is how money is
10 distributed in a federalized system such as the
11 United States. So, the state government has a
12 pool of money, and it gets distributed through
13 the counties; which counties are winning or
14 losing in the distribution of money or which --
15 what are the factors that predict where the
16 money is going in the political system.

17 Q. Okay. Now, Professor, I just wanted to
18 clarify one thing. The cases that you've
19 testified in -- actually testified in, has
20 Perkins Coie been involved in all those cases?

21 A. No.

22 Q. Is there any one where they've not been
23 involved where you've testified?

24 A. The Department of Justice, I -- they
25 might have been involved in some other -- for

1 some other party, but I was working for the
2 Department of Justice in the State of Texas v.
3 Holder.

4 Q. Unh-hunh (yes).

5 A. And the Edwards Aquifer Authority is the
6 San Antonio Water District, and I was retained
7 by an attorney for the State of Texas named
8 Renee Hicks.

9 Q. Okay. Now, have you any experience in
10 drawing redistricting plans?

11 A. A little. I've -- there's casual
12 experience teaching students how to draw plans,
13 and in my course on elections, we use map
14 making software such as Maptitude and other
15 free ware.

16 And then in the context of some of these
17 redistricting cases, people have asked me
18 about, like, how a plan ought to be shifted.
19 And so, I'll sort of mock out a plan; and if
20 you drew the boundary here, what would it mean
21 and so forth. That's just a query that's made
22 of me.

23 I've never drawn an entire state
24 districting plan for a state legislature.

25 Q. That was going to be my next question.

1 Have you been hired by a state legislature to
2 draw any sort of redistricting plan?

3 A. No.

4 Q. Have you ever been hired by a political
5 party to draw a proposed redistricting plan to
6 be presented during the legislative process?

7 A. No.

8 Q. Have you been hired by anybody to draw a
9 redistricting plan?

10 A. No, except in the context of some of
11 these cases, I'm asked, "What if we drew the
12 district that way?" And I will get on the
13 software and look at the district. So, I'll do
14 it in that context, but it's always in the
15 context of a case rather than in the context of
16 passage of a plan.

17 Q. So, you -- you would examine theories on
18 redistricting software after the case had been
19 filed? Is that a fair way to say it?

20 A. Yes, that's right.

21 Q. And you say -- what sort of software --
22 redistricting software are you familiar with?

23 A. I am familiar with Maptitude. I'm
24 familiar with a free -- an interesting free
25 ware platform called Dave's Redistricting App

1 developed by someone named Dave Bradley.

2 Q. We all know that one.

3 A. Okay. I love that one. I actually had
4 Dave come to Harvard to give a big presentation
5 to the Institute for Quantitative Social
6 Sciences. It was way interesting.

7 And then --

8 Q. He was quite popular in North Carolina
9 around February of 2011. (Laughter)

10 A. And then the software developed by Mike
11 Altman for the -- I forget what the name of it
12 -- My District Building, I think is what it's
13 called.

14 Q. Okay. Tell me all the times you've used
15 Maptitude.

16 A. I've used Maptitude through -- we had a
17 private license that I used Maptitude to just
18 draw various districts. We did a redistricting
19 exercise to draw districts for the entire State
20 Legislature in Massachusetts.

21 Q. Unh-hunh (yes).

22 A. I trained to do Maptitude in the State
23 Legislature in Massachusetts because they had
24 stated -- sent out a request for proposals, and
25 my colleague Jim Griner and I put in a proposal

1 to help them with the State Legislative
2 districts, but they chose another group to do
3 that.

4 I used Maptitude in looking at Florida
5 districts in the Romo case, and then just
6 casually for other, like, educational purposes,
7 like, for teaching purposes in making maps.
8 That's not redistricting.

9 Q. Have you had any training on Maptitude?

10 A. Yes, at Maptitude headquarters in
11 Massachusetts which is the next town over from
12 me.

13 Q. And how long was that training?

14 A. That was -- it was a -- it was a three
15 or four-day training. I also have training in
16 ArcGIS which is the platform on which Maptitude
17 is built.

18 Q. Just for the court reporter, tell her
19 what GIS stands for?

20 A. Geographic Information Systems.

21 Q. And what is that?

22 A. That is a -- a software architecture for
23 drawing maps.

24 Q. Okay. When you drew the Massachusetts
25 plan that you submitted for a proposal, who did

1 you submit the proposal to?

2 A. We didn't actually submit the plan for the
3 proposal. We just were training on it and --
4 and the proposal was for consulting services to
5 the Massachusetts State Legislature, and it was
6 directly to Representative Moran, M-o-r-a-n,
7 and Representative -- I think it's Rosenfield
8 or Rosen- --.

9 Q. Do you remember what --

10 A. Senator Rosenfield. They had a joint
11 house/senate committee to draw districting.

12 Q. We had the same thing. What political
13 party were those two gentlemen from?

14 A. They're both Democrats.

15 Q. Do you remember anything about the draft
16 Massachusetts plan that you drew?

17 A. Well, I drew many draft -- I drew many
18 different versions of it.

19 Q. Okay. Do you remember what criteria you
20 used?

21 A. We were looking for various things, but
22 one of the things -- one of the criteria we
23 were using is could we make a map that was
24 unbiased for the parties; can we make a fair
25 map using standards of unbiasedness that

1 academics had developed -- statistical
2 standards.

3 Q. Is that why you weren't hired? Sorry.
4 I couldn't resist that.

5 A. Actually, I think that -- my own
6 assessment of the Massachusetts plan, after the
7 fact developed by somebody completely
8 different, was that they actually drew a really
9 fair map; and they got rid of an old partisan
10 gerrymander that was discriminatory against the
11 Republicans in the state.

12 Q. Okay.

13 A. They really made things a lot better.
14 It was a good thing.

15 Q. What kind of screens did you look at --
16 computer screens on Maptitude? What sort of
17 information was on the screens?

18 A. We loaded a lot of demographic data, the
19 census data, population count -- voting age
20 population count by racial groups. We loaded
21 in different voting data that we -- we
22 provided. One of the projects I ran at Harvard
23 is called the Harvard Election Data Archive.

24 Q. Unh-hunh (yes).

25 A. And the project there was to try to

1 collect as much precinct level election data as
2 possible and merge it in with census data.
3 This is one of the reasons I trained in ArcGIS,
4 to really get how to do those merges and
5 linkages.

6 So, beyond -- beyond drawing maps, it's
7 very useful for trying to deal with these
8 aggregation issues which are statistical
9 problems. You know, precincts are different
10 from census areas. So, how do you link these
11 two levels of reporting of data.

12 So, that -- and a lot of the motivation
13 for that development was just to -- we've got
14 this new technology for putting information out
15 there, and that would improve the study of
16 elections generally in the United States so
17 people could understand better the relationship
18 between the sociological structure of the
19 United States and the electoral structure of
20 the United States.

21 Q. Okay. With Maptitude could you pull up
22 on the screen the tabulation districts?

23 A. Yeah.

24 Q. Okay. Could the person manipulating the
25 computer decide the type of information that he

1 wanted to look at in relationship to vote
2 tabulation districts?

3 A. Yes.

4 Q. Okay. So, was it possible, for example,
5 to pull up the vote tabulation districts and
6 only look at election results?

7 A. Yes, you can select what is pulled in the
8 -- there are different -- different versions of
9 Maptitude; and depending on which version is
10 used, different options and functionality are
11 available.

12 For example, one version of Maptitude
13 that they allowed us access to was the previous
14 version which allowed you to randomly simulate
15 districts, which I thought was kind of cool.
16 But apparently nobody wanted to buy it, so they
17 didn't distribute it in the new version of
18 Maptitude.

19 But there are different versions of
20 Maptitude that do different things. It depends
21 a little bit on the version, but, yeah, you can
22 -- and we -- you could also pull in your own
23 data into Maptitude so you can bring your own;
24 not just what they provide. You can bring your
25 own data and upload it which is what we were

1 doing in the Massachusetts project.

2 Q. But would you agree that with the
3 Maptitude, you can pull up information on a VTD
4 level based upon election results?

5 A. Yes.

6 Q. And you can limit it to election
7 results, can you not?

8 A. Yes.

9 Q. And you can limit it to a particular
10 election result, can you not?

11 A. Yes.

12 Q. Okay. All right. Now, I want to move
13 to paragraph four. And what did you do to get
14 ready for this deposition today, Professor?

15 A. I read through all my reports, and
16 yesterday I met with Eddie Speas, and we
17 discussed my report.

18 Q. Okay. I'm not going to ask you anything
19 about that.

20 A. Okay.

21 Q. Now, you say here that you have been
22 asked to assess whether race is a predominant
23 factor in the configuration of Congressional
24 District 1 and 12.

25 A. Unh-hunh (yes).

1 Q. Okay. What do you mean by "a
2 predominant factor"?

3 A. Is it a factor that strongly predicts a
4 configuration of the district in a statistical
5 sense. I'm looking at effects rather than, you
6 know, what individuals were doing when they
7 drew the maps. So, I'm taking a look at which
8 demographic categories were put into which
9 groups, or which partisan categories were put
10 into which groups of districts -- groups of
11 VTDs that comprise districts.

12 And there might be multiple factors in
13 constructing a district, and the question was
14 how important? Is it the most important
15 predictor? Is it an important predictor of
16 race.

17 Q. Okay. Where did you get the term "a
18 predominant factor"? Who gave you that term?

19 A. I -- that was one of the questions that
20 was put to me, was is -- is it a predominant
21 factor in the configuration of these districts.

22 Q. So, could there be more than one
23 predominant factor under your analysis?

24 A. It's possible. It's possible there are,
25 say, two equally important factors. Those

1 would be two predominant factors, and
2 everything else is less important. It's
3 possible if there's one fact that strongly
4 predicts --

5 Q. All right. And in your report -- I'm
6 sure we'll get a chance to go over this, but is
7 it your conclusion that race was a predominant
8 factor amongst other potential factors or was
9 it the predominant factor?

10 A. It -- it -- my conclusion is the
11 predominant factor in the analysis of -- in
12 comparing party versus race. When I looked
13 within party groups, I see a very strong racial
14 difference, but when I looked with racial
15 groups, I only see a small party difference.
16 And that's what I mean by holding race and
17 party constants.

18 The idea is to try to -- try to predict
19 which of these is a stronger factor. It need
20 not have come out that way, but --

21 Q. So, you were comparing race against
22 party. And does that mean --

23 A. Right.

24 Q. -- how people are registered to vote?

25 A. In this case, I was looking at how

1 people are registered to vote, and that's
2 because North Carolina is a state in which
3 party and race are on the voter files. So,
4 it's uniquely good data. It avoids the
5 aggregation issues that we discussed earlier
6 because it's individual level data.

7 If I didn't have that individual level
8 data on how individuals are registered as -- of
9 a certain racial group and of a certain party
10 group, I would have to make an imputation based
11 on aggregate level correlations. So, this is
12 from a statistical perspective superior to the
13 aggregate analysis one might do.

14 Others have done aggregate analyses in
15 other contexts and --

16 Q. Okay. And I've read your report. So,
17 you were looking at registration stats; not VTD?

18 A. Yes.

19 Q. Is that pretty much the heart of your
20 report?

21 A. Yes.

22 Q. Okay. Did you ever look at actual
23 election results by VTD?

24 A. Well, the actual election results do not
25 have race. I don't know how the race of a

1 given voter -- nor do I know how all black
2 voters voted. I'd have to make an imputation
3 or prediction based on some aggregate level
4 correlation.

5 Q. So, if you looked at election results by
6 VTD, you're saying that from that data, you
7 couldn't determine the race of the voters?

8 A. Correct, with certainty. We do have to
9 make additional assumptions. So, without
10 having to make those assumptions, you can state
11 with the registered voters, there are this many
12 black Democrats or this many black Republicans,
13 and this many black undeclared and so forth.

14 Q. Okay. Now, did you -- tell me what --
15 if you can remember, to the best of your
16 ability, what -- what did you review in
17 preparing this report?

18 A. I reviewed the reports that are available
19 on the North Carolina Redistricting web page.

20 Q. What reports? There's a lot of reports.

21 A. Yeah, yeah. The reports -- there's a
22 page for the Rucho-Lewis 3 map, and there are
23 reports on demographics of the diff- -- VTDs in
24 the different districts. So, I downloaded and
25 reviewed all of those spreadsheets and reports

1 that were there.

2 And I think that there were some -- I'm
3 trying to remember if I reviewed -- I think I
4 downloaded another report from the website on
5 just the redistricting process.

6 Q. Okay. Is it fair to say the only
7 redistricting plan you looked at was the
8 Rucho-Lewis 3 Congressional plan?

9 A. Yes. I didn't look at any of the prior
10 plans from throughout the process, and I also
11 looked at the existing -- the plan that applied
12 to the prior decades' districts.

13 Q. Okay. That was a bad question I asked
14 you, and I'm sorry. I know you got a stats
15 report from the prior plan.

16 A. Okay.

17 Q. That's not what I'm really asking you.
18 Did you -- you did a VTD analysis of the
19 Rucho-Lewis 3 Congressional plan, right?

20 A. Correct.

21 Q. And did you do a VTD analysis of the
22 prior 2001 Congressional plan?

23 A. Yes.

24 Q. Okay. And for the analysis for both of
25 those plans, you looked at registration

1 statistics for the VTDs?

2 A. Correct. And we also looked at census
3 demographic statistics.

4 Q. Okay. But, again, you didn't look at
5 the election results for those VTDs?

6 A. I don't remember doing an election --

7 Q. Okay. Did you review any Supreme Court
8 decisions in preparing this report?

9 A. Not this one specifically. I had a few
10 cases going on at the same time, and so --

11 Q. I understand.

12 A. -- there were Supreme Court cases in
13 those others.

14 Q. Right. Are you familiar with a couple
15 of Supreme Court decisions, which I have
16 mispronounced for years almost as badly as I've
17 mispronounced your name; but which I've now
18 been corrected to refer to as Cromartie -- the
19 U.S. Supreme Court decisions in Cromartie, have
20 you ever looked at those cases?

21 A. I've read those cases in other contexts,
22 yes.

23 Q. Okay. Did you refer to those cases in
24 preparing this report?

25 A. No, I did not.

1 Q. Do you recall anything about those cases?

2 A. Not off -- not offhand, except that Dr.
3 Hofeller has noted that in Cromartie, the Court
4 said -- states reservations about using
5 registration as an indicator.

6 Q. Okay.

7 A. The question is an indicator of what, and
8 I think that's probably a question that will be
9 discussed in trial.

10 Q. Okay. Do you recall anything else about
11 those cases?

12 A. Not -- not too many in particular, but
13 --.

14 Q. Okay. Did you read any Supreme Court
15 cases about what is meant by the term
16 predominant factor in preparing this report?

17 A. Not in preparing this report, but I've
18 read the term many times.

19 Q. Okay. Did you look at any of the --
20 you're aware of the fact that there was a state
21 court redistricting case?

22 A. Yes.

23 Q. Okay. And Mr. Speas represented a group
24 of the Plaintiffs in that case. Are you aware
25 of that?